

**AMENDMENTS TO THE CLAIMS**

**This listing of claims will replace all prior versions and listings of claims in the application:**

**LISTING OF CLAIMS:**

1. (currently amended): A non-aqueous electrolyte secondary battery comprising:  
a negative electrode with a composite layer containing a negative active material;  
a positive electrode; and  
a non-aqueous electrolyte;  
characterized in that  
said negative active material is an alloy containing 5 to 25 mass% of nickel and 75 to 95  
mass% of tin, ~~and~~  
said alloy contains  $\text{Sn}_4\text{Ni}_3$  phase and Sn phase, and  
the content ratio of said  $\text{Sn}_4\text{Ni}_3$  phase and said Sn phase in said alloy is  $0.2 \leq Z \leq 3$  when  
 $m_1$  is the mass of said  $\text{Sn}_4\text{Ni}_3$  phase,  $m_2$  is the mass of said Sn phase, and  $Z = m_1 / m_2$ .

2. (canceled).

3. (currently amended): The non-aqueous electrolyte secondary battery according  
to claim 1 ~~or claim 2~~, characterized in that said composite layer contains carbon material.

4. (currently amended): The non-aqueous electrolyte secondary battery according  
to claim 1 ~~or claim 2~~, characterized in that  
said composite layer contains carbon material, and

when  $n_1$  is the mass of said alloy,  $n_2$  is the mass of said carbon material, and  $S = n_1 / n_2$ ,  $S$  falls within the range of  $0.05 \leq S \leq 3.5$ .

5. (currently amended): The non-aqueous electrolyte secondary battery according to claim 1 ~~or claim 2~~, characterized in that

in said composite layer, powdered negative active material is used, and  
the porosity of said composite layer is 30 to 75 %.

6. (original): The non-aqueous electrolyte secondary battery according to claim 3, characterized in that

in said composite layer, powdered negative active material is used, and  
the porosity of said composite layer is 30 to 75 %.

7. (original): The non-aqueous electrolyte secondary battery according to claim 4, characterized in that

in said composite layer, powdered negative active material is used, and  
the porosity of said composite layer is 30 to 75 %.

8. (currently amended): The non-aqueous electrolyte secondary battery according to claim 1 ~~or claim 2~~, characterized in that

the apparent density of said negative electrode is 2.5 to 8.3 g/cm<sup>3</sup>.

9. (original): The non-aqueous electrolyte secondary battery according to claim 3, characterized in that

the apparent density of said negative electrode is 2.5 to 8.3 g/cm<sup>3</sup>.

10. (original): The non-aqueous electrolyte secondary battery according to claim 4, characterized in that

the apparent density of said negative electrode is 2.5 to 8.3 g/cm<sup>3</sup>.

11. (currently amended): A non-aqueous electrolyte secondary battery comprising:  
a negative electrode with a composite layer containing a negative active material;  
a positive electrode; and  
a non-aqueous electrolyte;  
characterized in that  
said negative active material is an alloy containing 5 to 25 mass% of nickel and 75 to 95 mass% of tin,

said alloy contains Sn<sub>4</sub>Ni<sub>3</sub> phase and Sn phase, and

said alloy comprises Sn having a peak lying in a range of  $30.5^\circ \leq 2\theta \leq 30.8^\circ$  in X-ray diffraction obtained with CuK $\alpha_1$  radiation, and

the content ratio of said Sn<sub>4</sub>Ni<sub>3</sub> phase and said Sn phase in said alloy is  $0.2 \leq Z \leq 3$  when  $m_1$  is the mass of said Sn<sub>4</sub>Ni<sub>3</sub> phase,  $m_2$  is the mass of said Sn phase, and  $Z = m_1 / m_2$ .